

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA**

**ZURICH AMERICAN INSURANCE
COMPANY,**

Plaintiff,

vs.

**JUNIORETTE GRIFFIN SMITH,
as administratrix of the estate of
Roger Dale Smith
Defendant.**

CASE NO.: 2:07CV216-MEF

MOTION TO SET ASIDE DEFAULT JUDGMENT

COMES NOW the Defendant, Juniorette Griffin Smith, as Administratrix of the Estate of Roger Dale Smith, by and through her attorney of record, Christopher M. Sledge and respectfully requests this Honorable Court to set aside the Clerk's Entry of Default Judgment entered in the above styled cause of action on April 20, 2007. As grounds for said motion the Defendant shows unto this Honorable Court as follows:

1. That the Clerk entered Default Judgment against the Defendant on April 20, 2007 at 3:58 PM CDT.
2. That prior to the Clerk's entry of Default, the undersigned filed a Notice of Appearance and a Motion to Dismiss on April 20, 2007, at 12:54 PM CDT.
3. The above styled cause of action was filed by Plaintiff, Zurich American Insurance Company, seeking Declaratory Judgement as to whether Uninsured and/or Underinsured Motorist Coverage was owed to Defendant.
4. The Plaintiff will not be prejudice in any way by a setting aside of the Clerk's Entry of Default.

5. That Default was not the result of willful conduct, bad faith or intentional and deliberate disrespect for court rules and judicial authority.

6. That the Defendant has meritorious defenses and/or a valid claim to the proceeds under Plaintiff's, Zurich American Insurance Company, policy of Uninsured and/or Underinsured Motorist Coverage sold to Boan Contracting Company, Inc.

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully requests this Honorable Court to set aside the Clerk's Entry of Default entered in the above styled cause of action on April 20, 2007.

Respectfully Submitted,

/S/ Christopher M. Sledge

Christopher M. Sledge (SLE005)

WOODARD, PATEL & SLEDGE

1213 East Three Notch Street

Andalusia, Alabama 36420

(334) 222-9115

CERTIFICATE OF SERVICE

I, Christopher M. Sledge, do hereby certify that I have this day served a true and correct copy of the above foregoing by mailing the same by U.S. Mail, postage prepaid to the following:

Vernon L. Wells, II
One Federal Place
1819 5th Ave. North, Suite 1100
Birmingham, AL 35203

DONE this 20th day of April, 2007.

/S/ Christopher M. Sledge

Christopher M. Sledge